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INTRODUCED BY _____
(Primary Sponsor)

BY REQUEST OF THE DEPARTMENT OF ADMINISTRATION

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS CONCERNING ACCESS TO PUBLIC RECORDS; CLARIFYING THAT THE ACTUAL COST OF THE PROVISION OF ELECTRONIC PUBLIC WRITINGS BE RECOVERED; PROVIDING FOR A COMMERCIAL ENTERPRISE, OTHER THAN THE PRESS, TO PAY MARKET VALUE FOR DATA; ALLOWING ELECTRONIC GOVERNMENT CONVENIENCE FEES TO BE SET AT REASONABLE LEVELS; AMENDING SECTIONS 2-6-110 AND 2-17-1102, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 2-6-110, MCA, is amended to read:

"2-6-110. Electronic information and nonprint records -- public access -- fees. (1) (a) Except as provided by law, each person is entitled to a copy of public information compiled, created, or otherwise in the custody of public agencies that is in electronic format or other nonprint media, including but not limited to videotapes, photographs, microfilm, film, or computer disk, subject to the same restrictions applicable to the information in printed form. All restrictions relating to confidentiality, privacy, business secrets, safety, security, and copyright are applicable to the electronic or nonprint information.

(b) The provisions of subsection (1)(a) do not apply to collections of the Montana historical society established pursuant to 22-3-101.

(2) Except as provided by law and subject to subsection (3), an agency may charge ~~a fee~~ an amount, not to exceed:

(a) the agency's actual cost of purchasing the electronic media used for transferring data, if the person requesting the information does not provide the media;

(b) expenses incurred by the agency as a result of mainframe and midtier processing charges;

(c) expenses incurred by the agency for providing online computer access to the person requesting access;

1 (d) other out-of-pocket expenses, including established fees and the requester's reasonable share of
2 the cost of protecting personal privacy interests or information required to be kept confidential by federal law,
3 directly associated with the request for information, including the retrieval or production of electronic mail; and

4 (e) ~~the hourly rate for the current fiscal year for a state employee classified as grade 10, market salary,~~
5 ~~under 2-18-312 for each hour, or fraction of an hour, after one-half hour of copying service has been provided~~
6 a fee, established by the department of administration as provided in 2-17-1103, for providing electronic
7 government services. The department's fee charged to a commercial enterprise, other than the press, for the
8 commercial use of public information may reflect the market value of the information.

9 (3) (a) In addition to the allowable ~~fees~~ charges in subsection (2), the department of revenue may
10 charge an additional fee as reimbursement for the cost of developing and maintaining the property valuation and
11 assessment system database from which the information is requested. The fee must be charged to persons,
12 federal agencies, state agencies, and other entities requesting the database or any part of the database from
13 any department property valuation and assessment system. The fee may not be charged to the governor's office
14 of budget and program planning, the state tax appeal board, or any legislative agency or committee.

15 (b) The department of revenue may not charge a fee for information provided from any department
16 property valuation and assessment system database to a local taxing jurisdiction for use in taxation and other
17 governmental functions or to an individual taxpayer concerning the taxpayer's property.

18 (c) All fees received by the department of revenue under subsection (2) and this subsection (3) must
19 be deposited in a state special revenue fund as provided in 15-1-521.

20 (d) Fees charged by the secretary of state pursuant to this section must be set and deposited in
21 accordance with 2-15-405.

22 (4) For the purposes of this section, the term "agency" has the meaning provided in 2-3-102 but includes
23 legislative, judicial, and state military agencies.

24 (5) An agency may not charge more than the amount provided under subsection (2) for providing a copy
25 of an existing nonprint record.

26 (6) An agency shall ensure that a copy of information provided to a requester is of a quality that reflects
27 the condition of the original if requested by the requester.

28 (7) This section does not authorize the release of electronic security codes giving access to private
29 information."
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1 **Section 2.** Section 2-17-1102, MCA, is amended to read:

2 **"2-17-1102. Definitions.** As used in this part, unless the context requires otherwise, the following
3 definitions apply:

4 (1) "Advisory council" means the electronic government advisory council established in 2-17-1105.

5 (2) "Convenience fee" means a fee, set at a reasonable rate, charged ~~to recover the costs of~~ for
6 providing electronic government services.

7 ~~(3) "Costs" means the overall costs that the department may incur to provide electronic government~~
8 ~~services, including the costs of contracts entered into with private entities to assist in providing electronic~~
9 ~~government services.~~

10 ~~(4)~~(3) "Department" means the department of administration provided for in 2-15-1001.

11 ~~(5)~~(4) "Infrastructure" means the underlying technology necessary to provide electronic government
12 services."

13

14 NEW SECTION. **Section 3. Effective date.** [This act] is effective on passage and approval.

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